

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

KEYBANK NATIONAL ASSOCIATION,

Plaintiff,

-against-

MONOLITH SOLAR ASSOCIATES LLC, et al.,

Defendants.

Case No. 1:19-CV-1562-
DNH-ATB

**ORDER DECLARING THE CITY OF TROY IS ESTOPPED FROM CHALLENGING
CERTAIN CONSENT/ESTOPPEL CERTIFICATES**

UPON the Motion of Daniel Scouler, the Court appointed Receiver herein, dated March 10, 2023 (the “Motion”)¹ seeking an Order declaring that the City of Troy (the “City”) is estopped from taking any position inconsistent with the representations set forth in certain “Consents/Estoppel Certificates” in any future litigation or other dispute with Sunlight General Capital, LLC, or any of its subsidiaries (collectively “SLG”), as assignee of a certain Power Purchase Agreement (the “PPA”) and related Leases (the “Leases”) entered into between the City and Monolith Solar Associates LLC, or one of its subsidiaries (collectively, “Monolith”); the Court finds as follows:

- A. The Court has authority to grant the relief sought in the Receiver’s Motion;
- B. Proper and sufficient notice of the Motion has been provided. No other or further notice is required, and a reasonable opportunity to object or be heard regarding the relief requested in the Motion and the transactions pursuant thereto has been afforded to all interested persons and entities entitled to notice of the Motion. Objections, if any, to the Motion have been withdrawn or

¹ Capitalized terms not otherwise defined herein have the meanings ascribed thereto in the Receiver’s Motion papers.

resolved and, to the extent not withdrawn or resolved, are hereby overruled; and

C. The relief sought in the Receiver's Motion is necessary in order to facilitate the Receiver's sale of assets and will not prejudice any party with an interest in the subject assets in that each entity with an interest in the subject assets has not objected to the relief sought in the Receiver's Motion, or such objection has been considered and overruled.

NOW, THEREFORE, IT IS HEREBY ORDERED THAT:

1. The Motion is granted as modified below.

2. The City of Troy is hereby estopped from taking any position inconsistent with the representations set forth in the Amended Consent/Estoppel Certificates, as defined in the Receiver's Reply Declaration, and which are attached to an email submitted as Exhibit A to the March 28, 2023 Reply Declaration of Daniel Scouler (Dkt. No. 521), in any future litigation or other dispute with SLG, as assignee, except that:

a. This Order is not binding with respect to the Consent and Estoppel Certificate relating to a Lease Agreement dated October 30, 2017 (referred to in this Estoppel Certificate as the ("Lease")) between Monolith Solar Associates LLC ("Lessee"), and Troy Local Development Corporation ("Lessor"); and

b. The "SOLAR PPA ESTOPPEL CERTIFICATE AND CONSENT TO SOLAR PPA ASSIGNMENT" is deemed revised as follows:

i. ", save for that which is specified in Section 6 below" is stricken from Paragraph 5;

ii. Paragraph 6 is stricken in its entirety;

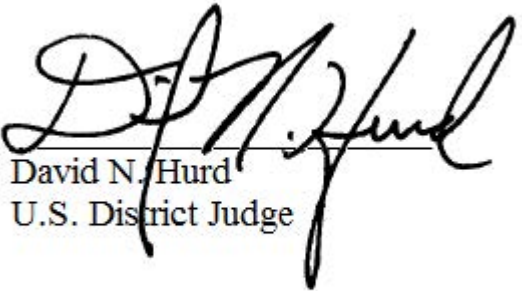
iii. Paragraph 14 is stricken in its entirety;

3. Any claim the City may have for overpayments of any amount to Monolith is not a

claim under the Solar PPA within the meaning of revised Paragraph 5 of the “SOLAR PPA ESTOPPEL CERTIFICATE AND CONSENT TO SOLAR PPA ASSIGNMENT”, and all of the City’s rights to pursue such claim against Monolith and the Receivership Estate are preserved.

4. Any remaining objections to the Motion or the relief requested therein that have not been withdrawn, waived, or settled are overruled in all respects and denied.

IT IS SO ORDERED:



David N. Hurd
U.S. District Judge

Dated: 03-29-2023 _____